

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IN RE LLRICE 601	)	4:06 MD 1811 CDP
CONTAMINATION LITIGATION	)	ALL CASES

**CASE MANAGEMENT ORDER No. 1**

Having considered the various filings presented by the parties and having discussed certain scheduling issues with counsel at the initial scheduling conference held on April 12, 2007, the Court issues this first Case Management Order. As indicated at the conference, I expect to issue further orders as the case progresses, and I also expect to have periodic scheduling conferences in an attempt to keep this case moving as quickly as possible. This order deals only with some initial matters involving pleadings, some motions, and the beginning phases of discovery. I have also today entered a separate Order Appointing Leadership Counsel.

Counsel have explained that it has recently been discovered that a different form of Bayer's genetically modified rice, LLRice 604, may have also contaminated the United States rice supply. Plaintiffs have indicated that they are likely to broaden their claims to include allegations about LL Rice 604, and perhaps other genetically modified rice. Defendants agree that joinder of such claims is proper and would be much more efficient than requiring separate

litigation between the same parties over essentially the same issues. Because joinder of claims relating to other genetically modified rice is both proper and likely, I will change the title of this case to “In Re Genetically Modified Rice Litigation.” Accordingly,

**IT IS HEREBY ORDERED** that the name of this litigation is changed to “IN RE GENETICALLY MODIFIED RICE LITIGATION.” All further filings in this court that relate to all the cases shall use the following caption:

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IN RE GENETICALLY MODIFIED )	4:06 MD 1811 CDP
RICE LITIGATION )	ALL CASES

All filings that relate specifically to one or more individual cases will use a similar caption but shall specify the case or cases to which the document relates, as follows:

IN RE GENETICALLY MODIFIED )	4:06 MD 1811 CDP
RICE LITIGATION, )	
This document relates to: [Case title]	[Case No/Nos.]

Unless specifically ordered otherwise, all filings shall be in the master case only.

Any documents authorized to be filed in an individual case must also be filed in the master case.

**IT IS FURTHER ORDERED** that no papers shall be served or filed, and no process, discovery, or other procedure shall be commenced by counsel other than Lead Counsel, except as follows:

1. Other plaintiffs' counsel may file entries or withdrawals of appearance, motions to remand to state court and motions to dismiss parties or claims, and briefs responding to defense motions filed in the individual cases.

**These documents should be filed in both the master case and in the individual case, using the form of caption set out above.**

2. Other defendants' counsel may file entries or withdrawals of appearance, motions to dismiss for lack of personal jurisdiction or for improper service, and briefs responding to plaintiffs' motions filed in the individual cases.

**These documents should be filed in both the master case and in the individual case, using the form of caption set out above.**

3. Any non-Lead Counsel may file other motions for relief from or to modify this or any other order of Court, but are cautioned that they should do so only if there is a matter of utmost importance that they have already unsuccessfully sought to have raised by their Lead Counsel.

**IT IS FURTHER ORDERED** that all pleadings or motion responses or briefing obligations or schedules that would have applied in the transferor courts

are suspended, and no further response should be filed to any pleading, motion or discovery that was filed in the transferor courts.

**IT IS HEREBY ORDERED** that the following schedule shall apply to this phase of the case:

**A. Pleadings and Motions**

1. Plaintiffs' Lead Counsel shall file a Consolidated Class Action Complaint no later than **Thursday, May 17, 2007**.
2. Defendants shall respond to the Consolidated Class Action Complaint no later than **Thursday, June 21, 2007**.
3. At the scheduling conference to be held on June 7, Lead Counsel shall propose a deadline for filing any other pleadings.
4. Unless a specific briefing schedule has been established for any particular motion, briefs in opposition to motions shall be filed within twenty (20) days of filing the motion and any reply briefs must be filed ten (10) days thereafter.
5. **Motions to remand to state court:** For cases that were removed from state court and that are transferred to this Court by **May 1, 2007**, any plaintiffs who wish to file motions to remand or to renew motions to remand previously filed in the transferor court must do so no later than **Thursday, May 24, 2007**.

Briefs in opposition must be filed no later than **Wednesday, June 13, 2007** and any reply briefs must be filed no later than **Monday, June 25, 2007**. For any removed case that arrives in this Court after May 1, 2007, the deadline for filing motions to remand is twenty (20) days from the date the case is transferred to this Court; briefs in opposition are due twenty (20) days thereafter and any reply briefs must be filed ten (10) days thereafter.

6. **Motions challenging personal jurisdiction or service:** For any cases that have been transferred to this district by **June 1, 2007**, any defendants who wish to file motions to dismiss for lack of personal jurisdiction or for improper service must do so no later than **Thursday, June 21, 2007**. Briefs in opposition must be filed no later than **Wednesday, July 11, 2007** and any reply briefs must be filed no later than **Monday, July 23, 2007**. For any such case that arrives in this Court after June 1, 2007, the deadline for filing motions to dismiss for lack of personal jurisdiction or improper service is twenty (20) days from the date the case is transferred to this Court; briefs in opposition are due twenty (20) days thereafter and any reply briefs must be filed ten (10) days thereafter.

**B. Disclosure and Discovery**

**No disclosure or discovery documents should be filed with the court unless they are needed as exhibits to a motion. See Local Rule 26-3.02.**

1. Initial Disclosures:

a. Rice farmer plaintiffs who are suing solely in their capacity as rice farmers shall provide plaintiff fact sheets in lieu of the initial disclosures required by Rule 26(a)(1), Fed. R. Civ. P.

b. Form of plaintiff fact sheets: Lead counsel shall meet forthwith to confer on a form of plaintiff fact sheet (“PFS”) that will be treated as interrogatories and requests for production. The parties shall provide their proposed form of PFS to the Court for consideration at the June 7 conference; if there are any disagreements as to the format, each side shall present its own proposal and the court will choose one or the other. No briefing on this issue will be allowed.

c. Schedule for providing completed PFS forms to defendants: Plaintiffs who are named as class representatives in the Consolidated Class Action Complaint shall provide completed PFS forms to defense counsel no later than **June 29, 2007**. Lead Counsel shall confer regarding a schedule for completion of PFS forms by other plaintiffs, and shall provide their joint proposal to the Court for consideration at the June 7 conference; if there are disagreements, each side shall present its own proposal and the Court will choose one or the other. No briefing on this issue will be allowed.

d. All other plaintiffs and all defendants shall serve the initial disclosures required by Rule 26(a)(1) no later than **June 29, 2007**.

e. Plaintiffs who are named as class representatives in the Consolidated Class Action Complaint shall provide completed and signed authorizations to permit discovery from all federal agencies regarding their participation in any federal support or subsidy programs no later than **Tuesday, May 29, 2007**.

2. Discovery shall not be bifurcated; the parties may pursue class and merits discovery at the same time. Written discovery requests may be propounded beginning **July 6, 2007**.

3. Interrogatories: Plaintiffs collectively may propound up to 50 total interrogatories, including subparts, in one or more Master Sets of Interrogatories to the defendants named in the Consolidated Class Action Complaint. Such defendants shall respond within sixty (60) days. In addition to a complete PFS response from each rice farmer plaintiff, defendants collectively may propound up to ten (10) interrogatories, including subparts, to each rice farmer plaintiff, and each plaintiff shall respond within 45 days. No other interrogatories may be propounded to a rice farmer plaintiff except with leave of Court. Defendants may propound up to 25 interrogatories to any non-farmer plaintiff, and those plaintiffs

shall respond within 45 days. Plaintiffs collectively may propound up to 25 interrogatories to any defendant not named in the Consolidated Class Action Complaint, and those defendants shall respond within 45 days.

4. Requests for Admissions shall not be propounded to any party until further order of the Court; the Court expects to discuss this issue at the next scheduling conference.

5. Special Agreements: All parties shall be under a continuing duty to make prompt disclosure to the Court and to the other parties of the existence and terms of all agreements and understandings, formal or informal, absolute or conditional, settling or limiting their rights or liabilities in this litigation. This obligation includes not only settlements, but also such agreements known as “loan receipts” or “Mary Carter Agreements,” where a plaintiff is obligated to repay any settlement funds to a settling defendant if that plaintiff obtains recovery from non-settling defendants, as well as insurance, indemnification, contribution, and damage-sharing agreements.

6. Prior Discovery: all prior written discovery to which responses have not yet been served is deemed withdrawn.

7. Requests for Production of Documents and Things: Plaintiffs collectively may propound Master Sets of Requests for Production, in any



sequence they deem appropriate, to defendants named in the Consolidated Class Action Complaint. In addition to a completed PFS, defendants may propound request for production that do not duplicate requests in the PFS. All parties shall respond to requests for production no later than 60 days after the requests are propounded. Parties must produce documents on a rolling basis, rather than waiting until all responsive documents have been gathered. Lead Counsel must meet and confer regarding the schedule for the orderly production of different categories of documents. Lead counsel must attempt to agree on procedures for document production that minimize the cost and burden of production, which shall include the production of documents in electronic form. They shall provide their joint proposals to the Court for consideration at the June 7 conference; if there are disagreements, each side shall present its own proposal and the Court will choose one or the other. No briefing on this issue will be allowed.

8. Preservation and Confidentiality Orders: Lead Counsel shall attempt to agree on appropriate preservation and confidentiality orders. They shall provide their joint proposals to the Court for consideration at the June 7 conference; if there are disagreements, each side shall present its own proposal and the Court will choose one or the other. No briefing on this issue will be allowed.

9. Privilege Assertions: The provisions of Rule 26(b)(5), Fed. R. Civ. P., apply to all claims of privilege or protection of trial-preparation materials. Lead counsel shall attempt to reach agreement on a format and time for production of privilege logs, and if they are unable to agree, shall file a motion seeking the Court's resolution of their disagreement.

**C. Next Conference**

The Court will hold a scheduling conference on **Thursday, June 7, 2007 at 1:30 p.m. in Courtroom 14 South.** Telephone appearances will not be allowed at this conference, but at the conference a procedure will be established for telephone participation in later conferences. Not later than **Tuesday, June 5, 2007** lead counsel shall file a joint statement, which must:

1. Attach their joint or separate: (a) proposed form of PFS, (b) schedule for plaintiffs to provide completed PFSs, (c) proposed form of preservation order; (d) proposed form of confidentiality order, and (e) proposed procedures for document production, all as discussed above.


2. Propose schedules for the following events: (a) filing of additional pleadings, including any amended pleadings; (b) timing and appropriate limits on requests for admissions; (c) taking depositions of named class representatives and, to the extent then known, other witnesses whose depositions will be necessary; (d)

class certification motions and briefing; (e) disclosures of expert witnesses for class certification and on the merits; (f) the close of all discovery; and (g) filing of dispositive motions.

3. Set out any other issues the parties believe should be discussed at the conference.

**IT IS FURTHER ORDERED** that this Order applies to all cases already pending in this district, and will apply to any tag-along cases that may be added to the litigation in the future. Lead counsel are responsible for assuring that any newly added counsel in tag-along cases are provided copies of all scheduling and management orders issued before the tag-along cases arrived in this district.

**IT IS FURTHER ORDERED** that the Clerk of Court shall serve this Order by mail or facsimile on any counsel of record who are not yet registered in the ECF system, but after this order the Clerk will not provide service other than through the ECF system. As previously ordered, all counsel of record must register in this district's ECF system.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 18th day of April, 2007.